

FILED

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION AT BAY CITY**

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CLERK
U.S. DISTRICT COURT
EAST. DIST. MICH.
BAY CITY

EUGENIA MIDDLETON,

Plaintiff,

Case No. 03-10252

vs.

Magistrate Judge Binder

CLARE COUNTY DEPUTY ANTHONY BROWN, and
CLARE COUNTY
DEPUTY DEPUTY ROBERT ADRIAN VANBELZEN,

Defendants.

DANIEL G. ROMANO (P49117)
PATRICIA L. WORRALL (P62984)
THE THURSWELL LAW FIRM
Attorneys for Plaintiff
1000 Town Center, Suite 500
Southfield, Michigan 48075
248-354-2222 / fax 248-354-2323

BRADLEY D. WIERDA P63811
CUMMINGS, McCLOREY, DAVIS
& ACHO, PLC
Attorney for Defendants
3939 M-72 East
Williamsburg, MI 49690
(231) 938-2888

**FIRST AMENDED
COMPLAINT AND JURY DEMAND**

NOW COMES Plaintiff, EUGENIA MIDDLETON, by and through her attorneys, THE THURSWELL LAW FIRM, and complaining against the above-named Defendants states as follows:

1. That Plaintiff is a resident of the County of Clare, State of Michigan.
2. That upon information and belief, Defendant, Officer Anthony Brown, is a resident of the County of Clare, State of Michigan.

3. That upon information and belief, Defendant, Officer Robert Adrian VanBelzen, is a resident of the County of Clare, State of Michigan.

4. That on or about August 26, 2002, at approximately 7:45 p.m., Defendants, Officer Brown and Officer VanBelzen, pursued Plaintiff's son, Adam Middleton, from his car into his home. The officers did not have exigent circumstances, a warrant, or consent.

5. That Plaintiff, Eugenia Middleton, was standing at the door when the officers ran up to her porch, picked her up, and threw her out of the way. The officers offered no explanation but lifted Ms. Middleton by her throat and tossed her aside. More specifically, Officers Brown and VanBelzen choked, pushed, and manhandled Ms. Middleton. In addition, the officers beat Adam Middleton on his kitchen floor in front of his mother, Plaintiff Eugenia Middleton.

6. That after Defendants willfully and maliciously assaulted, battered, and trespassed upon Plaintiff's person, Defendant Officers maliciously swore out warrants against Plaintiff, Eugenia Middleton, for obstruction of justice, two counts of assaulting, resisting, and obstructing a police officer, and one count of accessory of the fact to a felony. These charges were sworn out by Defendants, VanBelzen and Brown, knowing that they were false. These charges were sworn out by the Defendants to cover their unlawful entry of Plaintiff's home.

7. That Defendants authored police reports that contained blatant lies.

8. That a review of the videotape of the incident demonstrates that there are many inconsistencies and untruths in the police report authored by Defendants. Defendants overreacted, assaulted, and battered a woman with no

criminal past. Defendants entered Plaintiff's home, arrested her, incarcerated her, and caused her to be separated from her family for weeks.

9. That Defendants did these horrific and outrageous acts because they were trying to cover their unlawful arrest and entry into the home.

10. That after a trial, the Plaintiff was acquitted of all charges.

11. That as a direct and proximate result of the unlawful actions of the Defendants, the Plaintiff incurred legal expenses. In addition, the Plaintiff was ordered by the Court, because of the lies told by the Defendants to cease contact with her family for several weeks.

12. That, Eugenia Middleton, had to miss her high school reunion because she could not enter a building that served alcohol.

13. That the videotape of this incident demonstrates that Defendant, Deputy VanBelzen, a very large man, grabbed Ms. Middleton by her throat when he first approached her.

14. That the videotape demonstrates that these officers did nothing to warn or explain their reason for entering her home without a warrant.

15. That the videotape demonstrated that there were no exigent circumstances and that these officers could have secured a warrant for entry into the home, if the entry was lawful.

16. That for the foregoing reasons and those which will be determined through the Court's discovery, these Defendants unlawfully violated Ms. Middleton's rights pursuant to federal and state law.

17. That the Defendants violated the Fourth Amendment rights of Plaintiff, Eugenia Middleton, by using excessive force while attempting to detain her.

18. That the Defendants violated the Fourth Amendment and MCLA 780.656; MSA 28.1259(6) and MCL 764.21; MSA 28-880 by improperly entering her home.

19. That at all times pertinent hereto, Defendants acted without good faith and without probable cause.

20. That as a result of the aforementioned arrest, the injured Plaintiff sustained severe bodily injuries, which were painful, disabling, and necessitated medical care. In addition thereto, said Plaintiff suffered shock and emotional damage, possible aggravation of dormant conditions and was unable to attend to his usual affairs, render services as formerly, and hampered said Plaintiff in the enjoyment of the normal pursuit of life as before and will have the impaired earning capacity in the future, continued pain, and suffering as well as permanency, all as a result of Defendants' negligence.

21. That Plaintiff, Eugenia Middleton, sustained personal injuries as a direct and proximate result of the aforementioned arrest.

22. That as a direct and proximate result of the acts of Defendants as aforesaid, Plaintiff, Eugenia Middleton, has been compelled to expend, and may be required to expend in the future, large sums of money for medical care and treatment.

23. That as a direct and proximate result of the acts of Defendants as aforesaid, Plaintiff, Eugenia Middleton, has lost wages and may continue to lose wages in the future.

24. That as a direct and proximate result of the acts of Defendants as aforesaid, Plaintiff, Eugenia Middleton, has suffered economic losses.

25. That as a direct and proximate result of the acts of Defendants as aforesaid, Plaintiff, Eugenia Middleton, has suffered non-economic losses associated with a change in lifestyle which has occurred since she was assaulted by Defendant Police Officers.

26. That as a direct and proximate result of the acts of Defendants as aforesaid, Plaintiff, Eugenia Middleton, has suffered non-economic losses including, but not limited to, emotional pain and suffering since being assaulted by Defendant Police Officers.

27. That Plaintiff, Eugenia Middleton, sustained personal injuries as a direct and proximate result of the wrongful acts of the Defendants as alleged herein.

38. That as a direct and proximate result of the wrongful acts of Defendants as aforesaid, the Plaintiff:

- a. Sustained severe bodily injuries, which were painful, disabling, and necessitated medical care.
- b. In addition thereto, Plaintiff sustained shock and emotional damage.
- c. Possible aggravation of pre-existing conditions or reaggravation of dormant conditions.
- d. Was unable to attend to her usual affairs, render services as formerly.
- e. Hampered said Plaintiff in the enjoyment of the normal pursuit of life as before.
- f. Said injuries are permanent to the degree that Plaintiff suffered a loss and the ability to earn money as before and will have impaired earning capacity in the future, continued pain and suffering, as well as permanency, all as a result of Defendants' acts as herebefore alleged.

COUNT I
FALSE ARREST

Plaintiff, Eugenia Middleton, incorporates each of the general allegations contained herein.

29. That by reason of the wrongful acts of the Defendants, Plaintiff was falsely arrested and/or detained.

WHEREFORE, Plaintiff, Eugenia Middleton, demands judgment in her favor and against Defendants in whatever amount the Plaintiff is found to be entitled, together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT II
FALSE IMPRISONMENT

Plaintiff, Eugenia Middleton, incorporates each of the allegations contained herein.

30. That by reason of the wrongful acts of Defendants, Plaintiff, Eugenia Middleton, was falsely imprisoned.

WHEREFORE, Plaintiff, Eugenia Middleton, demands judgment in her favor and against Defendants in whatever amount the Plaintiff is found to be entitled, together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT III
ASSAULT AND BATTERY

Plaintiff, Eugenia Middleton, incorporates each of the allegations contained herein.

31. That Defendants intentionally and without provocation or justification did assault, batter, and molest Plaintiff, Eugenia Middleton, causing her severe and debilitating injuries.

32. That Defendants intentionally and without provocation or justification did use excessive force on Plaintiff, Eugenia Middleton.

WHEREFORE, Plaintiff, Eugenia Middleton, demands judgment in her favor and against Defendants in whatever amount the Plaintiff is found to be entitled, together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT IV
SECTION 1983 AGAINST INDIVIDUALS

THE THURSWELL LAW FIRM
Attorneys at Law
1000 TOWN CENTER
SUITE 500
Southfield, Michigan 48075-1221
(248) 354-2222

Plaintiff, Eugenia Middleton, incorporates each of the allegations contained herein.

33. That 42 USC Section 1983 provides for civil liability for deprivation of any right, privileges, and immunities carried by the constitution and laws of the United States and the State of Michigan.

34. That at all times material herein, Defendants were acting under color of law.

35. That at all times material herein, said Defendants subjected Plaintiff to deprivation of her rights, privileges, and immunities secured by the Constitution of the United States and, more specifically, Amendments 4, 5, 8, and 9 of the laws of the United States and the State of Michigan.

WHEREFORE, Plaintiff, Eugenia Middleton, demands judgment in her favor and against Defendants in whatever amount the Plaintiff is found to be entitled, together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT V
MALICIOUS PROSECUTION

Plaintiff, Eugenia Middleton, incorporates by reference each of the allegations contained herein.

36. That Defendants, for vexation and trouble or maliciously, caused or procured Plaintiff to be arrested, attached, or in any way proceeded against, by process or civil or criminal action, or in any other manner prescribed by law, to answer to the suit or prosecution.

37. That Defendants' wrongful acts as indicated herein were in violation of Section 600.2907 MCLA.

WHEREFORE, Plaintiff, Eugenia Middleton, demands judgment in her favor and against Defendants in whatever amount the Plaintiff is found to be entitled, together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT VI
DEFAMATION/LIBEL

Plaintiff, Eugenia Middleton, incorporates each of the allegations contained herein.

38. That by reason of the wrongful acts of the Defendants, false and defamatory statements were made to the press regarding Plaintiff Eugenia Middleton's criminal propensities.

39. That by reason of the wrongful acts of the Defendants, this libel, slander, and defamation were propagated throughout the community.

WHEREFORE, Plaintiff, Eugenia Middleton, demands judgment in her favor against Defendants in whatever amount the Plaintiff is found to be entitled, together with exemplary and punitive damages, plus interest, costs, and attorney fees.

COUNT VII
INVASION OF PRIVACY

Plaintiff, Eugenia Middleton, incorporates by reference each of the allegations contained herein.

40. That as a direct and proximate result of the wrongful acts of the Defendants as aforesaid, the Plaintiff:

- a. Sustained severe bodily injuries, which were painful, disabling, and necessitated medical care.
- b. In addition thereto, Plaintiff sustained shock and emotional damage.
- c. Possible aggravation of pre-existing conditions or reaggravation of dormant conditions.
- d. Was unable to attend to her usual affairs, render services as formerly.
- e. Hampered said Plaintiff in the enjoyment of the normal pursuit of life as before.
- f. Said injuries are permanent to the degree that Plaintiff suffered a loss and the ability to earn money as before and will have impaired earning capacity in the future, continued pain and suffering, as well as permanency, all as a result of Defendants' acts as herebefore alleged.

WHEREFORE, Plaintiff, Eugenia Middleton, demands judgment in her favor against Defendants in whatever amount the Plaintiff is found to be entitled, together with exemplary and punitive damages, plus interest, costs, and attorney fees.

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BY: 

DANIEL G. ROMANO (P49117)
Attorney for Plaintiff
1000 Town Center, Suite 500
Southfield, Michigan 48075
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JURY DEMAND

NOW COMES Plaintiff, Eugenia Middleton, by and through her attorneys, THE THURSWELL LAW FIRM, and hereby demands a trial by jury.

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DANIEL G. ROMANO (P49117)
Attorney for Plaintiff
1000 Town Center, Suite 500
Southfield, Michigan 48075
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